

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

May 2, 1989

Dennis F. Rasmussen
County Executive

Anthony J. DiPaula, Esquire
614 Bosley Avenue
Towson, Maryland 21204

RE: Petitions for Special Exception and Zoning Variance
NW/Corner York and Shawan Roads
8th Election District - 3rd Councilmanic District
Amoco Oil Company - Petitioners
Case No. 89-403-XA (Item No. 31)

Petitions for Special Exception and Zoning Variance
SE/S Belair Road, 32' NE of Kaab Avenue
(8809-8811 Belair Road)
11th Election District - 6th Councilmanic District
Herman J. Nesline, et ux and Amoco Oil Company - Petitioners
Case No. 89-406-XA (Item No. 31)

Dear Mr. DiPaula:

Enclosed please find copies of the Office of Planning comments on the above-captioned matters, dated April 13, 1989 and April 12, 1989 respectively.

Please review said comments for each project and advise me as to whether or not your client will have any difficulty meeting the requirements set forth therein.

If you have any questions on the subject, please do not hesitate to contact me.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: Case Files

MICROFILMED

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

DATE: 4/13/89

FROM: Pat Keller
Deputy Director

SUBJECT: ZONING ADVISORY COMMENTS - 4/12/89

Case # 89-403-XA
Item # 310
Amoco Oil Company

The Petitioner proposes a special exception for an automotive service station (Gas-n-go) with a convenience food store of less than 5,000 square feet as a use in combination and a variance to allow one business sign of 183.02 square feet in lieu of the permitted 100 square feet. In reference to this request, staff offers the following comments.

This property was rezoned in the 1988 Comprehensive Zoning Process (Issue No. 3-052). As a result of this issue, a deed restriction regarding the installation and maintenance of an evergreen tree buffer was recorded. The property obtained CRG approval for the site layout on March 23, 1989 (File No. VIII-538). The approved zoning plan should conform to the approved CRG plan and approved final landscape plan.

This office does not support the requested sign variance.

Compressed air and water should be provided.

File: A:41289.txt pg.3

MICROFILMED



Maryland Department of Transportation
State Highway Administration

RECEIVED
FEB 6 1989

Richard M. Troner
Secretary
Hal Kassoff
Administrator

ZONING OFFICE

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Baltimore County
Amoco Oil Company
Zoning Meeting of 2-7-89
N/W/C of York Road
(MD 45) and Shawan Rd.
(Item #310)

Attn: Mr. James Dyer

Dear Mr. Haines:

After reviewing the submittal for a special exception for an automotive service station and a convenience food store with less than 5,000 square feet of retail sales area in combination with the service station, we offer the following comment.

The plan must be revised to show the reconstruction of existing inlets along York Road and locating them at the proposed curblir

It is requested this revision be made prior to a hearing date being set.

Also, we have forwarded this plan to our Highway Beautification Section, c/o Morris Stein (333-1642) for all comments relative to a variance to allow one business sign with an area of 183.02 square feet in lieu of the three business signs with a total area of 100 square feet as permitted.

If you have any questions, please call Larry Brocato of this office at 333-1350.

Very truly yours,

Gregory J. Mills, Jr., Chief
Bureau of Engineering
Access Permits

LB:zaw

cc: Mr. M. Stein (w-attachment)
AFR Assoc., Inc.
Mr. J. Ogle

MICROFILMED

My telephone number is (301) 333-1350

Teletypewriter for Impaired Hearing or Speech
343-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5082 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
County Office Building, Suite 405
Towson, Maryland 21204
494-3554

March 1, 1989

Dennis F. Rasmussen
County Executive

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

Dear Mr. Haines,

The Bureau of Traffic Engineering has no comments for items number 290, 297, 298, 309, 310, 311, 315, 317, 319, 320, 321, & 323.

Very truly yours,

Michael S. Flanigan
Traffic Engineer Assoc. II

MSF/lab

RECEIVED
MAR 4 1989

ZONING OFFICE

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reiske
Chief

February 14, 1989

J. Robert Haines, Zoning Commissioner
Office of Planning & Zoning
Baltimore County Office Building
Towson, Maryland 21204

Re: Property Owner: Amoco Oil Company

Location: NWC York and Shawan Roads

Item No.: 310

Zoning Agenda: Meeting of February 7, 1989

Dennis F. Rasmussen
County Executive

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals of 100 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.

(X) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation. CRG 11

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: Capt. J. J. Bailey
Fire Prevention Bureau
Special Inspection Division

NOTED & APPROVED: Capt. J. J. Bailey
Fire Prevention Bureau

Zoning Commissioner
County Office Building
Towson, Maryland 21204

May 31, 1989

Re: 89-403-XA
Petition for S.E.
York & Shawan Roads
8th Dist. 3rd C.
Amoco Oil Company

Dear Mr. Commissioner,

Please enter an appeal of the above entitled case to the Board of Appeals of Baltimore County from the order of the Deputy Zoning Commissioner, Dated May 8, 1989.

Kenneth T. Bosley
Box 334
Cockeysville, Md. 21030
771-4316

RECEIVED
PAYMENT
6-1-89 (O.K.)
ZONING OFFICE

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

June 22, 1989

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Exception and Variance
NW/Corner York and Shawan Roads
8th Election District, 3rd Councilmanic District
AMOCO OIL COMPANY - Petitioners
Case No. 89-403-XA

Dear Board:

Please be advised that an appeal of the Special Exception portion only in the above-referenced case was filed in this office on June 1, 1989 by Kenneth T. Bosley. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. Robert Haines
Zoning Commissioner

JRH:ccr

Enclosures

cc: Mr. Charles Bagdanowicz - Project Engineer
Amoco Oil Company, 14520 Green Road, Baldwin, MD 21013

L. Rodney Crompton, Real Estate Management Agent
12228 Fawn Haven Court, Ellicott City, MD 21041

Anthony J. DiPaula, 614 Bosley Avenue, Towson, MD 21204

Appeal - Case No. 89-406-XA
(Special Facetion portion appealed only)
June 22, 1989
Page 2

Richard Truelove, AFR Associates
7427 Harford Road, Baltimore, MD 21234

Sarah Adams, 11424 York Road, Cockeysville, MD 21030

K. Webster Bosley, Box 595, Sparks, MD 21152

Kenneth T. Bosley, Box 334, Cockeysville, MD 21030

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

file

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MICROFILMED

APPEAL

Petition for Special Exception and Variance
(Special Exception Portion Only)
NW/Corner York and Shawan Roads
8th Election District - 3rd Councilmanic District
AMOCO OIL COMPANY - Petitioners
Case No. 89-403-XA

Petition for Special Exception

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel (None submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Petitioner's Exhibits: 1. Plat to accompany Petition
A. Drawing of sign
2. Plat to accompany Petition
3. 8 1/2 x 11 photograph of Amoco Station
4. No Exhibit "A" marked in file
5. 3 x 5 photograph of Amoco Station

Deputy Zoning Commissioner's Order dated May 8, 1989 (Granted w/ Restrictions)

Notice of Appeal received June 1, 1989 from Kenneth T. Bosley, interested party in this case.

cc: Mr. Charles Bogdanowicz - Project Engineer
Amoco Oil Company, 14520 Green Road, Baldwin, MD 21013

L. Rodney Compton, Real Estate Management Agent
12228 Fawn Haven Court, Ellicott City, MD 21043

Anthony J. DiPaula, 614 Bosley Avenue, Towson, MD 21204
Richard Truelove, APR Associates
7427 Harford Road, Baltimore, MD 21234

Sarah Adams, 11424 York Road, Cockeysville, MD 21030

K. Webster Bosley, Box 585, Sparks, MD 21152

Kenneth T. Bosley, Box 334, Cockeysville, MD 21030

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
Docket Clerk

AMOCO OIL COMPANY

89-403-XA

NW/Corner York & Shawan Roads

8th Election District
3rd Councilmanic District

SE -Service Station and convenience food store with less than 5,000 sq. ft. of retail sales area in combination with the service station.

February 8, 1989 Petition for Special Exception for service station and convenience food store with less than 5,000 sq. ft. of retail sales area.
May 8 Order of the D.C.C. GRANTING Petition with restrictions.
June 1 Notice of appeal received from Kenneth T. Bosley, Protestant.
January 5, 1990 Hearing on appeal before the Board of Appeals (FRM).
January 16 Opinion and Order of the Board GRANTING Petition.
February 14 Order for Appeal filed in CCT, BCo by Kenneth T. Bosley, Protestant.
February 22 Petition to accompany appeal filed in CCT, BCo by Kenneth T. Bosley, Protestant.
February 15 Cert. of Notice sent.
March 16, 1990 Transcript of testimony filed; Record of Proceedings filed.
July 18 Order of Judge Joseph F. Murphy, Jr. AFFIRMING C.B. of A.
August 15 Order for Appeal to the Court of Special Appeals by Kenneth T. Bosley, Appellant/Protestant.
September 25 Order of the Court of Special Appeals DISMISSING appeal.



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

HEARING ROOM -
Room 301, County Office Bldg.

APPEAL HEARINGS SCHEDULED FOR THE WEEK OF JANUARY 1, 1990

TUESDAY 1/2/90 10:00 a.m. THRASHER PROPERTY
#CBA-89-158 SW of Bexhill Road
2nd Election District
2nd Councilmanic District
RE: CRG Decision
WEDNESDAY 1/3/90 10:00 a.m. BRITANY II, Biscay Court
#CBA-89-133 Lots 59-63
RE: Sediment Control Violations
WEDNESDAY 1/3/90 11:30 a.m. ALLEN L. KUNDRAVIC, ET UX
#89-434-A NE/s School Rd., 88' NE of c/l Church Rd. (8711 School Road)
9th Election District
6th Councilmanic District
VAR -storage of 2 recreational vehicles in lieu of permitted one
WEDNESDAY 1/3/90 1:00 p.m. MARY KAY FRANK
#CBA-89-147 6720 Woodley Road
Baltimore, Maryland 21222
RE: Denial of Pool Permit
THURSDAY 1/4/90 HEARING ROOM NOT AVAILABLE FOR CBA HEARING
FRIDAY 1/5/90 10:00 a.m. AMOCO OIL COMPANY
#89-403-XA NW/Corner York & Shawan Roads
8th Election District
3rd Councilmanic District
SE -service station;
VAR -sign (Appeal from SE only)

cc: Executive Office
County Council
Law Office
People's Counsel
Planning Office
Current Planning
Board Members
Court Reporter
Information Desks (2)
✓Docket Clerk - Zoning

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: John R. Alexander DATE: December 5, 1990
Zoning Office

FROM: Kathleen C. Weidenhammer
Board of Appeals

SUBJECT: Case #89-403-XA (Amoco Oil Co.)

Attached is Acting Chairman Foreman's answer to the question asked in your memorandum of December 5, 1990 concerning the subject case and the Board's Order regarding same.

Attachment

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Linda Lee Kusumani DATE: December 5, 1990
Baltimore County
Board of Appeals
FROM: John R. Alexander
Zoning Office
SUBJECT: Case #89-403-XA (Amoco Oil Co.)

Does this appeal order include any of the conditions of the Zoning Hearing, or does it approve the appeal free of conditions?

Free of conditions
AF

88-0119 8-03005

89-403-XA

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Wirth / SWN (2) (Pre-App Permit only) DATE: November 8, 1991
Mr. Powell / EIRD
Mr. Pilson / W&S
Mr. Flowers / CBCA
Mr. Maranto / Planning
Mr. Richards / Zoning
Mr. Bowling / DEP (2)
Mr. Famili / Traffic
Mr. Weiss / Sanitation
Mr. Beaumont / Land Acq.
Ms. Lutz / House Nos.
Capt. Kelly / Fire Dept.
Mr. Kincaid / Rec. & Parks
Mr. Brocato / SHA
Mr. Butcher / C&P
Mr. Keller / OP& Deputy Director (FYI)

FROM: Susan Wimbley
Bureau of Public Services

SUBJECT: District: 8C3
Project Name: Amoco Oil Co. - York And Shawan Roads/
Project No.: 89051
Engineer: APR Associates, Inc.
Phone No.: 444-4312

ACTION REQUESTED:
CRG Plan Review (Meeting Waived) :
CRG Plan Refinement Review :
CRG Non-Material Amendment Review :
CRG Plan Approval Extension Review:XX
Parhandle Minor CRG Plan Review :
Minor Subdivision Review :

Pre-Approved Building Permits: No

Please provide separate comments for Building Permits.
NOTE: Please detail any comments where permit cannot be approved, but subdivision approval is acceptable.

Please review the attached plan for compliance with current regulations and return comments to our office by 11/26/91 if you have no comments or do not need to review this plan, please indicate by placing your initials here.

Thank you for your attention to our request.

SDW:mmm
cc: File

AMOCO OIL COMPANY
York and Shawan Roads

CRG Plan Approval Extension Review
Revised Plan Date: 11/6/91
Comments For: 11/26/91
Comments Date: 11/20/91
Comments Completed: 11/20/91

This site agrees with the plan on file in Zoning Case #89-403-XA; since, this site was the subject of this zoning public hearing which was granted on January 10, 1990 by the Board of Appeals, provide a zoning history by case number on the plan including the date of the last Order, what was requested, granted or denied and listing and indicating compliance with any restrictions including, but not necessarily limited to, case numbers 89-403-XA.

Final zoning approval is contingent first, upon all plan comments being addressed on the C.R.G. plan; and secondly, upon the final resolution of all comments, the outcome of any requested zoning hearings and finally, the inclusion of the blue commercial checklist information being included on the building permit site plans.

Any requests for further information from the Zoning Office must include a reference to the CRG Plan Extension Review and written correspondence or revised plans must be accompanied by a copy of these comments.

JLL:scj

cc: Current Planning
Zoning File - 89-403-XA
Waiver File

BALTIMORE COUNTY, MARYLAND

SUBJECT: COUNTY REVIEW GROUP COMMENTS DATE: 3/23/89

FROM: ZONING OFFICE

PROJECT NAME: Amoco Oil Company PLAN: 2/22/89

LOCATION: NW/Cor York Road
and Shawan Road

REV: 3/14/89 REV.:

DISTRICT: 8C3

REVISED PLAN KEY:
(X) COMPLIANCE WITH COMMENT CHECKED
(O) NON-COMPLIANCE IS CIRCLED
(BA) BE ADVISED (NOT NECESSARY FOR CRG APPROVAL, BUT MUST BE ADDRESSED PRIOR TO FINAL ZONING APPROVAL)
ADDITIONAL COMMENTS ADDED LAST BY PLAN DATE

A special exception zoning hearing is required to permit an Automotive Service Station in a B.M.-I.M. zone. The following comments are made for the C.R.G. plan and zoning hearing plan and application:

1. Provide complete Section 405 (B.C.Z.R.) notes on the plan under "Zoning S.405 notes". Include complete elevations, size, height, illumination, and keyed location of all signs proposed; including free-standing, pump, spreader bar, building and canopy signs. Dimension 1/2 sign overhangs from the street R/W 16 ft. setback required). Provide site area calculations in sq. ft. after street widening and correct listed setbacks to widening line, enlarge zoning notes (S.405) on the plan will be unworkable after microfilm reduction. Note that the only other signs proposed are building signs or canopy signs.
2. Identify fuel servicing, parking spaces (S), waiting spaces (W), and employee spaces (E) on the plan with a key in the notes. Dimension parking spaces and setback from street widening.
3. Include all zone lines on the plan print as per the 1"-200' zoning map #NW-198 and include a 1"-200' vicinity map. Note that all parking and maneuvering areas will be paved (indicate type) and permanently striped.
4. When the plan is revised through the C.R.G. process, comments addressed, and any additional conflicts with the B.C.Z.R. identified, this final revised plan should be included with the zoning hearing application. Final zoning approval is contingent upon the outcome of the public hearing.

W. CARL RICHARDS, JR.
Zoning Coordinator

WCR:scj

PETITIONER(S) EXHIBIT (5)



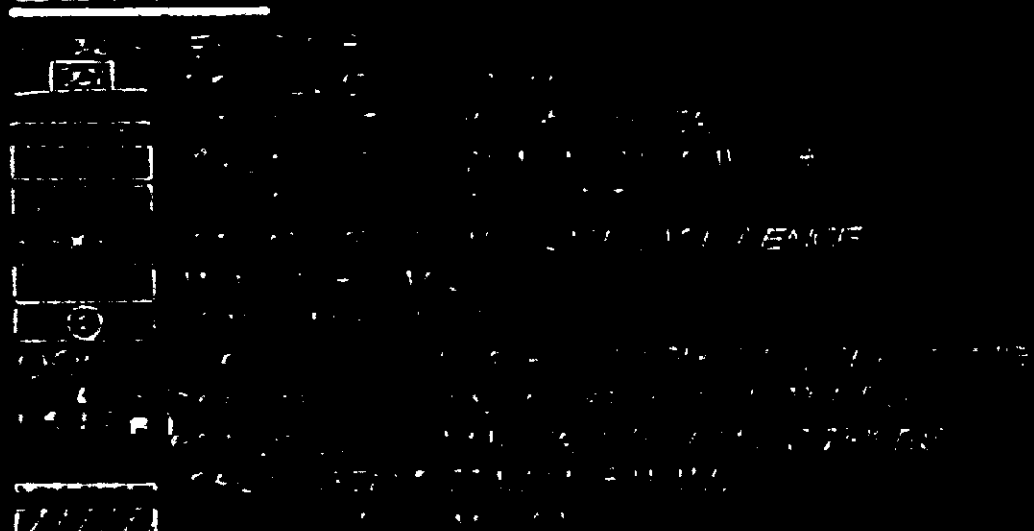
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PETITIONER(S) EXHIBIT (5)

LEGEND



OFF-STREET PARKING:

PARKING REQUIRED 5 SPACES PER 1000 S.F. GROSS FLOOR AREA
 PARKING PROVIDED (INCL. 1 N.C.) 5
 MIN. PARKING SPACE 7'1" x 21'
 ALL PAVED SURFACES ARE BITUMINOUS OR PORTLAND CEMENT CONCRETE.
 ON SITE CURB IS 6" H x 6" W CONCRETE.
 SCREENING SHALL MEET THE REQUIREMENTS OF THE BALTIMORE COUNTY LANDSCAPE MANUAL.

EXHIBIT B

APRIL 12, 1989

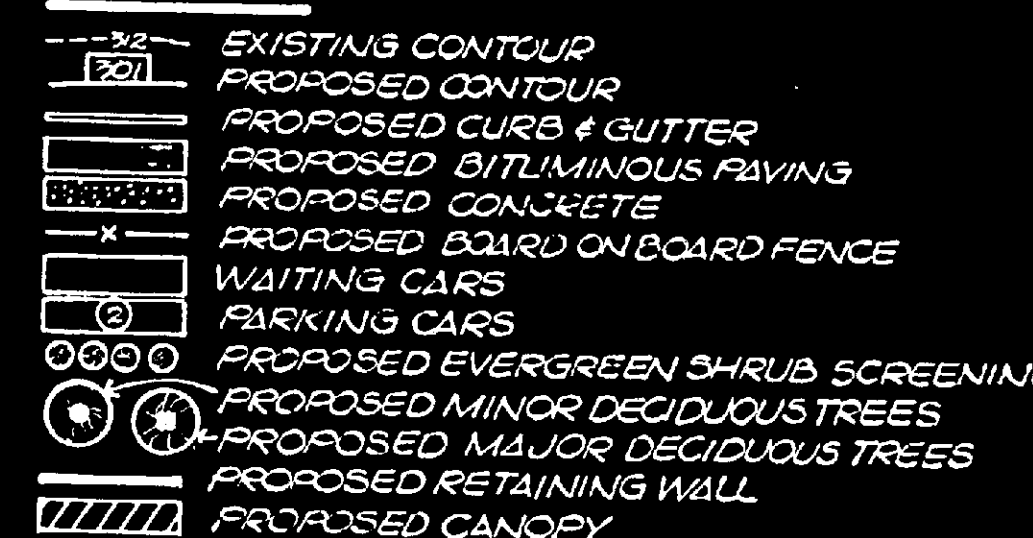
PETITIONER(S) EXHIBIT 2

PREPARED BY:



PLAT TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION
 AMOCO OIL COMPANY
 YORK & SHAWAN ROADS
 ELECT. DIST. NO. 8 BALTIMORE COUNTY, MD.
 SCALE: AS SHOWN DATE: NOV. 27, 1988

LEGEND



OFF-STREET PARKING:

PARKING REQUIRED 5 SPACES PER 1000 S.F. GROSS FLOOR AREA
 PARKING PROVIDED (INCL. 1 N.C.) 5
 MIN. PARKING SPACE 7'1" x 21'
 ALL PAVED SURFACES ARE BITUMINOUS OR PORTLAND CEMENT CONCRETE.
 ON SITE CURB IS 6" H x 6" W CONCRETE.
 SCREENING SHALL MEET THE REQUIREMENTS OF THE BALTIMORE COUNTY LANDSCAPE MANUAL.

PETITIONER(S) EXHIBIT 1

#310

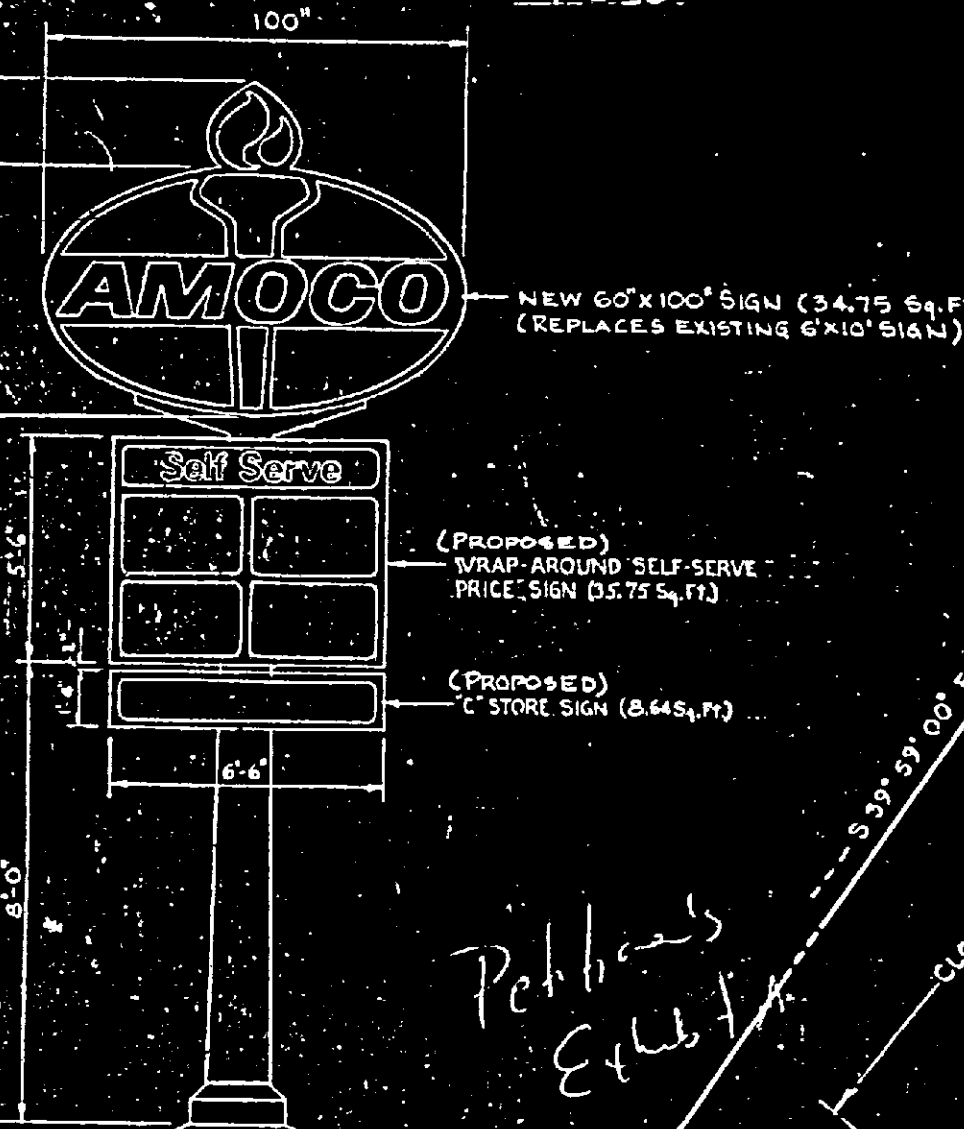
PREPARED BY:



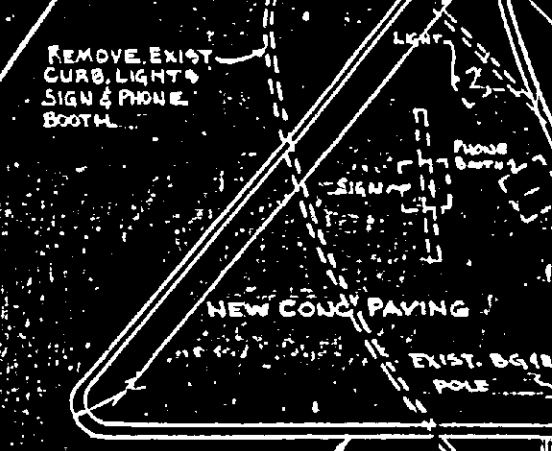
PLAT TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION
 AMOCO OIL COMPANY
 YORK & SHAWAN ROADS
 ELECT. DIST. NO. 8 BALTIMORE COUNTY, MD.
 SCALE: AS SHOWN DATE: NOV. 27, 1988

NO. 0126

FUTURE R/W
 N 15° 58' 0" E (211.12)
 JARRETTVILLE PIKE
 KEY PLAN
 1" = 50'



NEW 60' x 100' IDENTIFICATION SIGN TO REPLACE EXISTING 6' x 10' SIGN
 ADD NEW 5' x 2' x 6' PRICE SIGN AND 12' x 21' C STORE SIGN AS SHOWN ABOVE
 SQUARE FOOTAGE:
 60' x 100' SIGN = 3475 S.F.
 5' x 2' x 6' PRICE SIGN = 35.75 S.F.
 12' x 21' C STORE SIGN = 252 S.F.
 TOTAL = 3762.75 S.F.



140 2156

Court. The review by this Court is on the record created before the Board.

Appellant raises four (4) points in his Memorandum upon either of which this Court should reverse the decision of the Board of Appeals. Succinctly stated, Appellant's complaints are:

1. That Amoco will in fact be conducting a food preparation operation which will cause its patrons to utilize Mr. Bosley's property;

2. Amoco must have rest rooms as required by law and to prevent its customers from trespassing upon Mr. Bosley's property;

3. The site plan approved by the Board had material changes than that which had been reviewed by the County Review Group ("CRG") and the Zoning Commissioner;

4. The proposed use will create traffic congestion. Unfortunately for Mr. Bosley, the only evidence in the record relating to any of his objections relates to point No. 4 and the alleged impact the proposed improvements will have on traffic in the immediate area. Otherwise, the record is totally devoid of any evidence to support the other claims he makes in his Memorandum or in his Petition for Appeal.

3

To address the various points, however, to the extent necessary, the record is clear that Appellee will not be conducting a food preparation operation on the subject site. This was a specific finding by the Board, contained in its Opinion, and based upon the evidence presented. Mr. Bosley's recitation of how he envisions this presumed food preparation facility having an adverse impact on his property with its resultant illegally parked vehicles, trash and debris, and steady stream of trespassers, come only from the Appellant's imagination and not from any evidence in the record which the Board was supposed to have considered.

The absence of rest rooms in the proposed site is, according to Mr. Bosley, "quite contrary to the intent and spirit of Section 502.1 of the Baltimore County Zoning Regulations", and "detrimental to the health, safety, and general welfare of the locality and public". Again, besides not being raised below, the Board was of the opinion that the proposed improvements and use would not be contrary to any of the standards contained in Section 502.1, including that it would not be detrimental to the health, safety and general welfare of the locality and public, and there has been no reason given this Court why the Board's finding in that respect

4

should be considered arbitrary, capricious, or unsupported by substantial evidence considering the entire record as a whole.

Again, without making any mention before the Board, Mr. Bosley comes before this Court complaining of certain procedural irregularities, including but not limited to a claim that the Plan considered at the hearing and approved by the Board of Appeals was a different plan than had been considered or approved by the Deputy Zoning Commissioner or the County Review Group. The record is clear that the Plan presented to the Board and from which the various witnesses testified was nothing more than the Plan introduced at the hearing before the Deputy Zoning Commissioner, with the minor changes and revisions required by the County Review Group incorporated therein. As found by the Board on page 1 of its Opinion, it was in fact the same plan approved by the County Review Group on March 23, 1989, subject to zoning approvals.

Mr. Bosley also considers it a procedural irregularity that the Board's Order does not contain certain restrictions which were included in the Deputy Zoning Commissioner's grant of the Petition for Special Exceptions, specifically signs with height of twelve (12) feet instead of fourteen (14) feet, and free compressed air and water for its customers. Unfortunately, Mr. Bosley must realize that the hearing before

5

the Board is de novo, and the Board is not bound by anything that transpired below. The issue of compressed air and water is really a non-issue because one of the witnesses for Amoco Oil Company, L. Rodney Compton testified on cross-examination by Mr. Bosley that Amoco always provides free compressed air and water, not due to any order or direction by the local authorities, but because it is Amoco policy to do so. With respect to the height of the signs, if Mr. Bosley never requested the Board to impose such a restriction, he cannot now be heard to complain that no such restriction was imposed. Obviously, the Board did not find any merit in Mr. Bosley's claim that he would be able to see the lights on the site from his property some mile or so away.

Mr. Bosley's final complaint is that of alleged traffic congestion which will be created by the proposed use. He contends that the proposed entrances/exits will be dangerous, and believes that because Amoco Oil Company has not yet received an access permit from the State Highway Administration, that the Petition for Special Exceptions should have been denied. There is nothing in BCZR, Section 502.1 that requires the issuance of an access permit before a Petition for Special Exception can be granted. Essentially, it is a matter of first things first. Once the zoning approvals are received,

6

final CRG approval granted, and building permits applied for, it is then time to apply for various other permits before construction can begin. While an access permit may be denied at sometime in the future, that is a matter better left for the State Highway Administration, and not something to be considered by the Board of Appeals. The Board obviously found the absence of such a permit to be irrelevant, and decided that the standards of BCZR, Section 502.1 have been met.

The law is well settled in Maryland that a court will not substitute its judgment in a zoning case as to the soundness of an action taken by a zoning board if the question decided by the Board was fairly debatable and its action is not shown to have been arbitrary, capricious, or illegal. Furthermore, the action of the Zoning Board is to be sustained if, on the evidence presented, the matter is fairly debatable and the facts presented are sufficient to support the decision. The court will not set aside a decision by a zoning board if there is substantial evidence to justify the Board's findings and the decision is not arbitrary, capricious or discriminatory. *Crowther, Inc. v. Johnson*, 225 Md. 379 (1961); *Frdman v. Board of Zoning Appeals of Baltimore County*, 212 Md. 288 (1957).

7

Considering the Standard of Review, and the reasons presented for reversal of the Board of Appeals (most of which have been waived by not having been raised below), there has been no showing or even a proffer as to how the Board's decision was in any way arbitrary or capricious. Furthermore, there is overwhelming evidence in the record to support the Board's decision.

For all of the above reasons, it is respectfully submitted that the decision of the Board of Appeals of Baltimore County be affirmed.

Respectfully submitted,

Anthony J. DiPaula
Anthony J. DiPaula
Covahey & Booser, P.A.
614 Bosley Avenue
Towson, Maryland 21204
(301) 828-9441

8

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15 day of June, 1990, a copy of the foregoing Appellee's Memorandum Pursuant to Rule B-12 was mailed, first class, postage prepaid, to: The County Board of Appeals of Baltimore County, County Office Building, Room 315, 111 W. Chesapeake Avenue, Towson, Maryland 21204 and Kenneth T. Bosley, Box 334, Cockeysville, Maryland 21030.

Anthony J. DiPaula
Anthony J. DiPaula

90-06-20.CJ

9

KENNETH T. BOSLEY
APPELLANT
COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY
APPELLEE
IN THE MATTER OF THE APPLICATION
OF AMOCO OIL COMPANY FOR A SPECIAL
EXCEPTION ON PROPERTY LOCATED ON
NORTHWEST CORNER OF YORK AND SHAWAN
ROADS
8TH ELECTION DISTRICT
3RD COUNCILLMANIC DISTRICT
* * * * *

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
*
* CG Doc. No. 77
* Folio No. 181
* File No. 90-CG-581
* * * * *

ORDER

ORDERED, that on the 17 day of April, 1990 that an extension of time for Appellant to file a Memorandum be granted for a period of 30 days and that the Board of Appeals Reporter forward a copy of the transcript to the Appellant.

JUDGE

True Copy Test
SUZANNE HENSH, Clerk
Per *Suzanne Hensh*
Clerk

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COUNTY CLERK OF LOS ANGELES

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Kenneth T. Bosley
Kenneth T. Bosley
P.O. Box 334
Cockeysville, Maryland 21030
771-4316

February 8, 1989	Petition of Amoco Oil Company for Special Exception for an automotive service station (Gas-N-Go) and a convenience food store with less than 5,000 sq. ft. of retail sales area in combination with the service station.
March 16	Publication in newspapers.
March 21	Comments of Baltimore County Zoning Plans Advisory Committee.
March 24	Certificate of Posting of property.
April 12	Hearing held on Petition by the Deputy Zoning Commissioner.
May 8	Order of the Deputy Zoning Commissioner GRANTING the Petition with restrictions.
June 1	Notice of Appeal received from Kenneth T. Bosley, Protestant.
January 5, 1990	Hearing on appeal before the Board of Appeals.
January 16	Opinion and Order of the Board GRANTING Special Exception.
February 14	Order for Appeal filed in the Circuit Court for Baltimore County by Kenneth T. Bosley, Protestant.
February 22	Petition to accompany appeal filed in the Circuit Court for Baltimore County by Mr. Kenneth T. Bosley.

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WHEREFORE, Amoco Oil Company, Appellee, requests that
this Honorable Court:

- A. Dismiss the Appeal and assess all costs against the Appellant;
- B. Award unto Amoco Oil Company attorney's fees and costs for having to defend this unjustified proceeding; and
- C. Grant unto it such other and further relief as the Court deems appropriate.

Anthony J. DiPaula
Anthony J. DiPaula
Covachy & Booser, P.A.
614 Bosley Avenue
Towson, Maryland 21204
(301) 828-9441

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15 day of March, 1990, a copy of the foregoing Petition for Appeal was mailed, first class, postage prepaid to The County Board of Appeals of Baltimore County, County Office Building, Room 315, 111 W. Chesapeake Avenue, Towson, Maryland 21204 and Kenneth T. Bosley, Box 334, Cockeysville, Maryland 21030.

Anthony J. DiPaula
Anthony J. DiPaula

90-03-51.cb

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KENNETH T. BOSLEY
APPELLANT
v.
COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY
APPELLEE

IN THE MATTER OF THE APPLICATION
OF AMOCO OIL COMPANY FOR A SPECIAL
EXCEPTION ON PROPERTY LOCATED ON
NORTHWEST CORNER OF YORK AND SHAWAN
ROADS
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
ZONING CASE NO. 89-403-XA

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

CG Doc. No. 77
Folio No. 181
File No. 90-CG-581

PETITION

The petition of Kenneth T. Bosley, Appellant, in proper person, respectfully represents unto this Honorable Court:

1. The Deputy Zoning Commissioner for Baltimore County granted a Special Exception IN THE MATTER OF THE APPLICATION OF AMOCO OIL COMPANY FOR A SPECIAL EXCEPTION ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF YORK AND SHAWAN ROADS for an automotive service station with a convenience food store on May 8, 1989.

2. A timely appeal was filed by this Appellant of the Deputy Zoning Commissioner's Decision granting a Special Exception.

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3. The County Board of Appeals of Baltimore County was in error because a plan of the proposed zoning that was entered into the proceeding was never approved by the C.R.G. (Baltimore County Review Group).

4. An access permit from the State Highway Administration has yet to be approved. Storm drains relocations still have yet to be approved by the State Highway Administration. Utility pole relocations have yet to be approved by the State Highway Administration and Baltimore Gas & Electric Company. The Average Daily Traffic (ADT) count of 748 vehicles shown on the plan is substantially too low. An Amoco witness testified to the Board that 30,000 cars per day pass through and that 600 cars per day may stop at the Amoco. These even the latest plan submitted into evidence at the Board hearing is very tentative.

5. Amoco provided testimony that there will be no food preparation on site. This is contrary to the Baltimore County Department of Environmental Protection and Resource Management's comments to the Zoning Advisory Committee Meeting which characterizes this development as a food service facility which must submit plans and specifications to the Bureau of Regional Community Services. No testimony was given that food service plans and specifications have been submitted or approved by various health agencies.

3

6. There are no public restrooms indicated on the plan. Restrooms should be provided especially since food service is part of the proposed development. Thus this Special Exception will be contrary to Section 501.2a of the Baltimore County Zoning Regulations as being detrimental to the health, safety, and general welfare of the locality involved.

7. The Deputy Zoning Commissioner's decision states that lighting will be a maximum of 12 feet in height while the new plan submitted at the Board hearing has been raised to 14 feet in height. This should be reduced back to the 12 foot height to reduce the night sky light intrusion to the community.

8. That the County Board of Appeals of Baltimore County's decision was arbitrary, capricious and was otherwise illegal.

9. That your Petitioner is an aggrieved party whose property is or will be adversely affected by the Decision of the County Board of Appeals of Baltimore County, and as a resident of this area, your Petitioner's personal health will also be compromised and substantially effected.

10. Wherein petitioner pray that this Court require by writ of mandamus or other decree the relief sought.

3

11. This Petitioner prays that this Court grant further and other such relief that the nature of this case may require.

WHEREFORE, your Petitioner respectfully request that this court remand this matter back to the County Board of Appeals of Baltimore County.

Kenneth T. Bosley
Kenneth T. Bosley
Box 334
Cockeysville, Maryland 21030
771-4316

CERTIFICATE OF COMPLIANCE

I hereby certify that a copy of the foregoing was mailed on 22nd day of February, 1990, postage prepaid to: F. Vernon Booser, Esquire and Anthony J. DiPaula, Esquire, Covachy & Booser, P.A., 614 Bosley Avenue, Towson, Maryland 21204, and to the County Board of Appeals of Baltimore County, County Office Building, Room 315, 111 W. Chesapeake Avenue, Towson, Maryland 21204.

Kenneth T. Bosley
Kenneth T. Bosley
Box 334
Cockeysville, Maryland 21030
771-4316

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IN THE MATTER OF THE APPLICATION
OF AMOCO OIL COMPANY FOR A SPECIAL
EXCEPTION ON PROPERTY LOCATED ON THE
NORTHWEST CORNER OF YORK AND SHAWAN
ROADS
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
KENNETH T. BOSLEY, PLAINTIFF
ZONING CASE NO. 89-403-XA

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

CG Doc. No. 77
Folio No. 181
File No. 90-CG-581

CERTIFICATE OF NOTICE

Notice Clerk:
Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, Arnold G. Foreman, Michael B. Sauer, and Lynn B. Moreland, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, Kenneth Bosley, Box 334, Cockeysville, MD 21030, Plaintiff; F. Vernon Booser, Esquire and Anthony J. DiPaula, Esquire, 614 Bosley Avenue, Towson, MD 21204, Counsel for Amoco Oil Company; Mr. Charles Bogdanowicz, Amoco Oil Company, 14520 Green Road, Baldwin, MD 21013 and Arnold G. Foreman, Esquire, c/o County Board of Appeals, Room 315, County Office Bldg., Towson, MD 21204, a copy of which is attached hereto and prayed that it may be made a part hereof.

Linda Lee M. Kusznau
Linda Lee M. Kusznau, Legal Secretary
County Board of Appeals of Baltimore County
Room 315, County Office Bldg., Towson, MD
21204 (301) 887-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Kenneth Bosley, Box 334, Cockeysville, MD 21030, Plaintiff; F. Vernon Booser, Esquire and Anthony J. DiPaula, Esquire, 614 Bosley Avenue, Towson, MD 21204, Counsel for Amoco Oil Company; Mr. Charles Bogdanowicz, Amoco Oil Company, 14520 Green Road, Baldwin, MD 21013 and Arnold G. Foreman, Esquire, c/o County Board of Appeals, Room 315, County Office Bldg., Towson, MD 21204 on this 15th

Amoco Oil Company, File No. 90-CG-581
Case No. 89-403-XA
day of February, 1990.

Linda Lee M. Kusznau
Linda Lee M. Kusznau, Legal Secretary
County Board of Appeals of Baltimore County



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

February 15, 1990

F. Vernon Booser, Esquire
614 Bosley Avenue
Towson, Maryland 21204

Re: Case No. 89-403-XA,
Amoco Oil Company

Dear Mr. Booser:

July Judge
MURPHY AFFIDAVIT
APPEAL

AUG. TO CTOR
SPEC. APPEALS

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda Lee M. Kusznau
Linda Lee M. Kusznau
Legal Secretary

Encl.

cc: Anthony J. DiPaula, Esquire
Mr. Charles Bogdanowicz
L. Rodney Compton
Richard Truelove
Mr. Robert Hastings
Ms. Sarah Adams
K. Webster Bosley
Ms. Betty Griffin
F. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Oyer
W. Carl Richards, Jr.
✓ Docket Clerk - Zoning
Arnold Jablon, County Attorney

ENCLOSURE



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
1111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

February 15, 1990

F. Vernon Boozer, Esquire
614 Bosley Avenue
Towson, Maryland 21204

Re: Case No. 89-403-XA
Amoco Oil Company

Dear Mr. Boozer:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda M. Kuzmaul
Linda M. Kuzmaul
Legal Secretary

Encl.

cc: Anthony J. DiPaula, Esquire
Mr. Charles Bogdanowicz
L. Rodney Compton
Richard Truelove
Mr. Robert Hastings
Ms. Sarah Adams
K. Webster Bosley
Ms. Betty Griffin
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
1111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

February 15, 1990

Mr. Kenneth Bosley
Box 334
Cockeysville, Maryland 21030

Re: Case No. 89-403-XA
Amoco Oil Company

Dear Mr. Bosley:

In accordance with Rule B-7(a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit to the record of proceedings of the appeal which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within thirty days.

The cost of the transcript of the record must be paid by you. In addition, the cost incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you file in Court, in accordance with Rule B-7(a).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

Linda M. Kuzmaul
Linda M. Kuzmaul
Legal Secretary

Encl.

KENNETH BOSLEY
Box 334
Cockeysville, Md. 21030

COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY

In the matter of:

AMOCO Oil Company
NW Corner York & Shawan
SE-Cas & Co & Food Store

Case No. 89-403-XA

NOTICE OF APPEAL

Re. Clerk:

Please enter an appeal of the above entitled case to the Circuit Court for Baltimore County.

Kenneth Bosley
Kenneth Bosley
Box 334
Cockeysville, Md. 21030
771-4316

I hereby certify that on this 14th day of February 1990 that a copy of the above was mailed to Covey & Boozer, Attorneys for the Petitioner, by prepaid first class mail to 614 Bosley Avenue, Towson, Maryland 21204.

Kenneth Bosley
Kenneth Bosley

IN THE MATTER OF THE APPLICATION
OF AMOCO OIL COMPANY FOR A SPECIAL
EXCEPTION TO THE ZONING ORDINANCE
LOCATED ON THE
NORTHWEST CORNER OF YORK AND SHAWAN
ROADS
6TH ELECTION DISTRICT
3RD COUNCILLMAN'S DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO. 89-403-XA

OPINION

This case comes before this Board on an appeal from the Deputy Zoning Commissioner's granting of a special exception for the use of the subject property as an automotive service station and a convenience food store with a retail sales area of less than 5,000 sq. ft. Testimony was given by Richard Truelove, a professional engineer, who testified the site was one located at the northwest corner of York and Shawan Roads. The subject site is now vacant and had been a gas station in the past. In preparation of this project, the site had been excavated and the old gasoline tanks were removed. Mr. Truelove further advised that the site contained a gas-n-go service station with four islands located under a canopy. He further testified that this development plan went through the County Review Group (CRG) and was approved by them on March 23, 1989.

The subject site will contain, in addition to the pumps, a 24' x 40' building which will include the gasoline sales, a convenience food store of less than 5,000 sq. ft., an office, and storage space. Mr. Truelove further testified that the State Highway Administration has approved this plan but no formal permit has been issued for the road construction. The plan (Petitioner's Exhibit No. 1) indicates that a road widening must be accomplished in order to proceed with this project.

Mr. Charles T. Bogdanowicz, the project engineer for Amoco Oil Company, testified as to his experience in developing various sites for Amoco throughout the state of Maryland. He testified that there are six similar locations now

Amoco Oil Company
Case No. 89-403-XA

located in Baltimore County. This self-serve gas-n-go station with the convenience store would be able to service a maximum of eight cars at a time and would contain four 10,000 gallon underground storage tanks. He further testified that an air quality permit has already been obtained. There would be no food preparation on site. He then described the types of items available for purchase such as cold sodas, hot coffee, prepackaged sandwiches, snacks, etc.

Mr. Bogdanowicz further indicated that this site would be set back to the ultimate set back as required for future widening of the road as required by the various highway departments.

Mr. L. Rodney Compton, a business development representative for American Oil Company since 1961, told the Board that this area would be a proper location for a service station such as proposed. He explained the public need for this station as existing since there has been a large amount of commercial and residential development within this area. He further advised that the nearest service station was located 3/10th's of a mile south and that the nearest Amoco station was located approximately 3.3 miles away at York and Padonia Roads.

Mr. Compton further testified that approximately 9,700 Amoco credit card holders live in the subject site zip code area and its surrounding areas and that the development of an Amoco station in that area would service not only their need but public need. He further testified that based on his review of the traffic counts in the area, he projects approximately 30,000 cars per day pass this station and that approximately 600 cars per day may access this site when developed. Mr. Kenneth T. Bosley appeared as a protestant and advised the Board that he objects to this special exception being granted for the following reasons:

1. That the mill which exists on York Road prior to the intersection with Shawan Road produces a dangerous sight line to that intersection and he feels that the ingress and egress of cars and

Amoco Oil Company
Case No. 89-403-XA

2. That he owns 36 acres of property at York and Thornton Mill Roads and he feels he would be able to observe the sign and the lights from the site which would disturb the enjoyment of his property.
3. That no further road access permits have been granted to the Petitioners.

The Board next heard from Sarah Adams who lives four houses north of the proposed site who expressed her agreement with Mr. Bosley's statements. However, she indicated that she believed that a service station was needed in the area but that the convenience store was certainly not. After having reviewed the evidence, testimony and exhibits herein, the Board finds that the granting of a special exception would not conflict with any of the requirements set forth in Baltimore County Zoning Regulations, Section 502.1.

ORDER

It is therefore this 14th day of February, 1990 by the County Board of Appeals of Baltimore County ORDERED that the Petition for Special Exception requested herein for an automotive service station and a convenience food store with less than 5,000 sq. ft. of retail sales area be granted and the same is hereby GRANTED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Arnold Jablon
Arnold Jablon, Acting Chairman

Michael J. Sauer
Michael J. Sauer

Lynn B. Moreland
Lynn B. Moreland

Case No. 89-403-XA
3180
2-5-90

THE PETITIONERS FOR SPECIAL EXCEPTION AND VARIANCE - NW/CORNER York and Shawan Roads 6th Election District 3rd Councilmanic District
Amoco Oil Company
Petitioners

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 89-403-XA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special exception to use the subject property as an automotive service station (Gas-N-Go) in combination with a convenience food store with less than 5,000 sq.ft. of retail sales area, and a variance to permit one business sign of 183.02 sq.ft. total in lieu of the permitted three business signs totalling 100 sq.ft., all as more particularly described in Petitioner's Exhibit 1.

The Petitioners, by Charles T. Bogdanowicz, Project Manager, and L. Rodney Compton, Real Estate Management Agent, appeared, testified, and were represented by Anthony J. DiPaula, Esquire. Also appearing on behalf of the Petition was Richard Truelove, a registered professional engineer with AFR Associates. The following individuals appeared as interested parties: Sarah Adams, K. Webster Bosley, and Kenneth T. Bosley.

Testimony indicated that the subject property, located at the northwest corner of York Road and Shawan Road, consists of 26,402 sq.ft. zoned B.M.-I.M., and is presently unimproved. Petitioners propose constructing a 24' x 40' building which will include a service station (gasoline sales only), a convenience food store with less than 5,000 sq.ft. as well as office and storage space. Testimony presented indicated there would be no food preparation on the premises. Further testimony indicated the store would sell coffee, fountain sodas, and other items generally

found in a convenience store and that it would be open 24 hours a day, 7 days a week.

Mr. Compton, who has been a business development representative for Amoco Oil Company since 1961, testified that in his opinion, the proposed project will not result in any adverse affect upon current traffic patterns. He further indicated that as a result of studies done by the company regarding credit card holders in the area, there is a need for a gasoline service station at the proposed location.

Both Mr. Compton and Mr. Truelove testified as to the conditions delineated in Section 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). In their opinion, the conditions set forth in Section 502.1 will be met and the granting of the special exception in this instance will not in any way conflict with the requirements. Mr. Truelove further testified regarding the landscaping plans for the proposed site which he contends exceeds the requirements set forth in the Baltimore County Landscaping Manual.

Testimony presented by Petitioners indicated the requested sign variance is necessary in order to provide safe, adequate notice to prospective customers. At the request of the Deputy Zoning Commissioner and subsequent to the hearing, petitioners submitted a revised sign diagram wherein the identification sign was reduced to 79.14 sq.ft. per side, or 158.28 sq.ft. total. Said plan has been incorporated into the case file and has been identified as Petitioner's Exhibit A. Further, Petitioners submitted a diagram of the proposed lighting to permit the Protest. As an opportunity to review same and submit comments. Said diagram has been incorporated into the file and marked Petitioner's Exhibit B.

Ms. Adams, who resides approximately four houses from the site, appeared as an interested party to voice her concerns regarding the proposed development. Ms. Adams as well as the Bosleys were concerned about the additional traffic which would be generated by the proposed project and resulting congestion on these heavily travelled roads. Further, Mr. Bosley was concerned about the size and height of the proposed sign and the type of lighting proposed for the subject property.

It is clear that the B.C.Z.R. permits the use proposed in a B.M.-I.M. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. *Schultz v. Britte*, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. *McLean v. Soley*, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, as hereinafter modified, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special exception and a variance should be granted.

THEREFORE IT IS ORDERED by the Deputy Zoning Commissioner for

Baltimore County this 8th day of May, 1989 that the Petition for Special Exception to use the subject property as an automotive service station (Gas-M-Go) in combination with a convenience food store with less than 5,000 sq.ft. of retail sales area, in accordance with Petitioner's Exhibit 1, and a variance to permit one business sign of 158.28 sq.ft. total in lieu of the permitted three business signs totalling 100 sq.ft., in accordance with Petitioner's Exhibit A, be and are hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2) The variance granted herein is limited to one business sign of the size and dimensions as set forth in Petitioner's Exhibit A.
- 3) All lighting for the subject property shall be similar to that depicted in Petitioner's Exhibit B and shall not exceed 12 feet in height. Further, said lighting shall be directed away from any adjoining residential properties.
- 4) Petitioners shall comply with all comments submitted by the Zoning Plans Advisory Committee, including, but not limited to, the Department of Environmental Protection and Resource Management, Bureau of Water Quality, dated February 6, 1989, attached hereto and made a part hereof.
- 5) Petitioners shall provide compressed air and water to its customers at no charge.
- 6) Prior to the issuance of any permits, Petitioners shall submit a landscaping plan for approval by the Baltimore County Landscaping Planner.

7) When applying for a building permit, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for AN AUTOMOTIVE SERVICE STATION (GAS-M-GO) PURSUANT TO MDA Section 413.4.1 AND A CONVENIENCE FOOD STORE WITH LESS THAN 5,000 S.F. OF RETAIL SALES AREA IN COMBINATION WITH THE SERVICE STATION PURSUANT TO SECTION 405.4.3.6.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

Legal Owner(s):

(Type or Print Name)

Amoco Oil Company

Signature

(Type or Print Name)

Signature

(Type or Print Name)

Signature

(Type or Print Name)

Signature

(Type or Print Name)

Signature

(Type or Print Name)

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